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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,375	12/14/2001	Harinath Garudadi	010331	8079
23596 7590 07/10/2008 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER				
OPSASNICK, MICHAEL N				
ART UNIT		PAPER NUMBER		
2626				
NOTIFICATION DATE		DELIVERY MODE		
07/10/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/017,375

Applicant(s)

GARUDADRI ET AL.

Examiner

MICHAEL N. OPSASNICK

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/8/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As per the most recent interpretation of the Interim Guidelines regarding 35 U.S.C. 101, claims 26-33 is also non-statutory under the most recent interpretation of the Interim Guidelines regarding 35 U.S.C.101 because this claim does not clearly define any structural and functional interrelationship between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized (Warmerdam, 33 F.3d at 1361,31 USPQ2d at 1760; Lowry, 32 F.3d at 1583-84, 32 USPQ2d at 1035). Examiner recommends a slight modification to the preamble of claim 26 to overcome the 35 U.S.C. 101 rejection - modify claim 26 to read: "A computer readable medium storing computer executable instructions that when executed, causes a processor to perform the steps of:".

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-6,8-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Kushner et al (6633839).

As per claims 1,2,5,6, Kushner et al (6633839) teaches a distributed speech recognition system with a subscriber unit (col. 1 lines 5-10, Fig. 1) showing a feature extraction module (as extracting mfcc values – fig. 7); using a voice activity detection module for voice activity (col. 6 lines 34-59); and a wireless transmitter to transmit the detected activity and the features corresponding to different portions of the speech signal over a distributed voice recognition system (Figs. 1,2, and 3; examiner notes that the claimed ‘having different processing delays’ is nonfunctional descriptive language in nature, and as such, does not have any patentable weight).

As per claims 3,4, Kushner et al (6633839) teaches the VAD indicator before the plurality of features (col. 6 lines 34-44; examiner notes that the packet of data will be decoded with the VAD indicator information first, so that the resynthesizer has the proper information as to what type of voiced/unvoice/silence data is contained in the packet – col . 8 lines 58-67).

As per claims 8,14,20, Kushner et al (6633839) teaches the use of 2 bits to command the speech synthesizer in terms of what type of speech activity is contained in the frame (col. 6 lines 34-38).

As per claims 9,10,15,16,21,22, Kushner et al (6633839) teaches using the speech recognition information for hands free voice dialing or hand free information retrieval (col. 1 lines 15-20) in a DSR (col. 1 lines 40-50).

As per claims 11-13,17-19,23-25, Kushner et al (6633839) teaches detection of silence (based on a limit of 4subframe energy comparison), features are frequency based (col. 6 lines 42-45), and lower bit rate during silence (col. 6 lines 58-65).

Claims 26-33 are computer readable medium claims that force a processor to perform the method steps of claims 1-25, (and furthermore, Kushner et al (6633839) teaches a dsp processor - one of ordinary skill in the art easily recognizes that a dsp processor contains memory with processor instructions - fig. 4); as such, claims 26-33 are similar in scope and content to the method claims 1-6,8-25 and are rejected under similar rationale as presented against claims 1-6,8-25 above.

Response to Arguments

5. Applicant's arguments filed 2/8/2008 have been fully considered but are not persuasive. As per applicants arguments against different processing delays, examiner argues that the current claim language associated with the processing delays is nonfunctional descriptive language which does not carry patentable weight. As per applicants arguments against "corresponding to different portions of the speech", examiner argues that the referred to section of Kushner shows different features of different subsections of the 20 ms frame. Lastly examiner argues that Kushner, with the transmission of bit information to signify the type of speech activity, within the network, reads on the claim limitations of claim 8, in the sense that the communication between the server and the device contains control protocols to handle the voice activity detection information. Examiner recommends functional language to accentuate different processing delays as well as different frames of speech to overcome the Kushner reference.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

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will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see related art listed on the PTO-892 form. Please note Galyas teaching differing processing delays.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Opsasnick, telephone number (571)272-7623, who is available Tuesday-Thursday, 9am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richemond Dorvil, can be reached at (571)272-7602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael N. Opsasnick/
Primary Examiner, Art Unit 2626
7/4/08